

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Timothy D. Smith, Jr.,

Case No. 4:16CV236

Petitioner

v.

ORDER

Warden, Noble Correctional Institution,

Respondent

This is a state prisoner's habeas case under 28 U.S.C. § 2254.

The petitioner, Timothy Smith Jr., is serving a twelve-and-a-half-year sentence following his conviction, in the Common Pleas Court of Mahoning County, Ohio, for aggravated robbery and failing to comply with the lawful order of a police officer. The Ohio courts affirmed his convictions on direct appeal and rejected his motion to reopen the direct appeal. *State v. Smith*, 2012 WL 2308264 (Ohio App.); *State v. Smith*, 2014 WL 5867720 (Ohio App.).

Pending is Magistrate Judge Vecchiarelli's Report and Recommendation, which concluded that Smith's petition for a writ of habeas corpus is untimely. (Doc. 11).

Smith did not object to the R&R and thereby waived his right to have me conduct a *de novo* determination of the timeliness issue. *Amison v. Legg*, 2015 WL 853526, *1 (N.D. Ohio) (Lioi, J.); *see also Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (same).

It is, therefore,

ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 11) be, and the same hereby is, adopted as the order of the court;
2. The petition for a writ of habeas corpus (Doc. 1) be, and the same hereby is, dismissed with prejudice; and
3. No certificate of appealability will issue.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge